

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RANDY SOWELL,

Plaintiff,
-against-

CAPTAIN KELLY, *et al.*,

Defendants.

23-CV-5354 (LTS)

ORDER TO UPDATE
ADDRESS

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated October 16, 2023, the Court granted Plaintiff leave to file an amended complaint. The Clerk's Office mailed the order to Plaintiff on October 18, 2023, at the Vernon C. Bain Center ("VCBC"), a now-closed New York City Department of Correction facility.

On November 28, 2023, in another case pending before the Court, *Sowell v. Annucci*, No. 22-CV-6538 (LTS), the Clerk's Office received a postcard from Plaintiff, indicating that Plaintiff "was extradited to New Jersey from Rikers Island." *Id.* (Doc. No. 18). Plaintiff did not include a forwarding address. Public records maintained by the Cape May County Sheriff's Office, however, indicate that Plaintiff is detained at the Cape May Correctional Facility.

As set forth below, Plaintiff is directed to provide an updated address to the court within 30 days of the date of this order.

DISCUSSION

Under Rule 41(b) of the Federal Rules of Civil Procedure, a district court may dismiss an action *sua sponte* for failure to prosecute, as long as the court notifies the plaintiff. *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). A court may dismiss an action under Fed. R. Civ. P. 41(b), if the plaintiff fails to notify the court of a new address and the court is unable to contact the plaintiff. *See, e.g., Abdallah v. Ragner*, No. 12-CV-8840 (JPO), 2013 WL 7118083, at *4 (S.D.N.Y. Nov. 22, 2013) ("A plaintiff is required to notify the Court when his

address changes, and failure to do so is sufficient to justify dismissal of a plaintiff's complaint. . . . If [the plaintiff] does not contact the Court and update his address within the time allowed, this action will be dismissed for failure to prosecute.") (citing *Fields v. Beem*, No. 13-CV-0005, 2013 WL 3872834, at *2 (N.D.N.Y. July 24, 2013) (collecting cases)).

The Court hereby notifies Plaintiff that he must update the Court with his new address within 30 days of the date of this order. If Plaintiff does not comply with this order within the time allowed, the Court will dismiss this action, under Rule 41(b) of the Federal Rules of Civil Procedure, without prejudice to Plaintiff's refiling it.

CONCLUSION

Within 30 days of the date of this order, Plaintiff must update the Court, in writing, with his new address. Failure to do so will result in dismissal of the action without prejudice under Fed. R. Civ. P. 41(b) for failure to prosecute.

The Clerk of Court is directed to mail a copy of this order to Randy Sowell, Inmate No. 49802, Booking # 15975, Cape May Correctional Facility, 125 Crest Haven Rd, Cape May, NJ 08210.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: January 2, 2024
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge